

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

## Syllabus

**CONE v. BELL, WARDEN****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SIXTH CIRCUIT**

No. 07–1114. Argued December 9, 2008—Decided April 28, 2009

After the State discredited petitioner Cone’s defense that he killed two people while suffering from acute psychosis caused by drug addiction, he was convicted and sentenced to death. The Tennessee Supreme Court affirmed on direct appeal and the state courts denied postconviction relief. Later, in a second petition for state postconviction relief, Cone raised the claim that the State had violated *Brady v. Maryland*, 373 U. S. 83, by suppressing witness statements and police reports that would have corroborated his insanity defense and bolstered his case in mitigation of the death penalty. The postconviction court denied him a hearing on the ground that the *Brady* claim had been previously determined, either on direct appeal or in earlier collateral proceedings. The State Court of Criminal Appeals affirmed. Cone then filed a petition for a writ of habeas corpus in Federal District Court. That Court denied relief, holding the *Brady* claim procedurally barred because the state courts’ disposition rested on adequate and independent state grounds: Cone had waived it by failing to present his claim in state court. Even if he had not defaulted the claim, ruled the court, it would fail on its merits because none of the withheld evidence would have cast doubt on his guilt. The Sixth Circuit agreed with the latter conclusion, but considered itself barred from reaching the claim’s merits because the state courts had ruled the claim previously determined or waived under state law.

*Held:*

1. The state courts’ rejection of Cone’s *Brady* claim does not rest on a ground that bars federal review. Neither of the State’s asserted justifications for such a bar—that the claim was decided by the State Supreme Court on direct review or that Cone had waived it by never properly raising it in state court—provides an independent and ade-

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quate state ground for denying review of Cone's federal claim. The state postconviction court's denial of the *Brady* claim on the ground it had been previously determined in state court rested on a false premise: Cone had not presented the claim in earlier proceedings and, consequently, the state courts had not passed on it. The Sixth Circuit's rejection of the claim as procedurally defaulted because it had been twice presented to the Tennessee courts was thus erroneous. Also unpersuasive is the State's alternative argument that federal review is barred because the *Brady* claim was properly dismissed by the state postconviction courts as waived. Those courts held only that the claim had been previously determined, and this Court will not second-guess their judgment. Because the claim was properly preserved and exhausted in state court, it is not defaulted. Pp. 15–19.

2. The lower federal courts failed to adequately consider whether the withheld documents were material to Cone's sentence. Both the quantity and quality of the suppressed evidence lend support to Cone's trial position that he habitually used excessive amounts of drugs, that his addiction affected his behavior during the murders, and that the State's contrary arguments were false and misleading. Nevertheless, even when viewed in the light most favorable to Cone, the evidence does not sustain his insanity defense: His behavior before, during, and after the crimes was inconsistent with the contention that he lacked substantial capacity either to appreciate the wrongfulness of his conduct or to conform it to the requirements of law. Because the likelihood that the suppressed evidence would have affected the jury's verdict on the insanity issue is remote, the Sixth Circuit did not err by denying habeas relief on the ground that such evidence was immaterial to the jury's guilt finding. The same cannot be said of that court's summary treatment of Cone's claim that the suppressed evidence would have influenced the jury's sentencing recommendation. Because the suppressed evidence might have been material to the jury's assessment of the proper punishment, a full review of that evidence and its effect on the sentencing verdict is warranted. Pp. 20–26.

492 F. 3d 743, vacated and remanded.

STEVENS, J., delivered the opinion of the Court, in which KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. ROBERTS, C. J., filed an opinion concurring in the judgment. ALITO, J., filed an opinion concurring in part and dissenting in part. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.